

59-2708. Presumptive death in cases of catastrophic events, disasters, states of emergency or states of war emergency; requirements; definitions. (a) In cases of catastrophic events, disasters, states of emergency or states of war emergency, the death of persons whose bodies could not be found or identified shall be established according to the following procedure:

(1) The governor or president of the United States or both shall have declared a state of emergency or state of war emergency.

(2) An absentee shall be presumed dead immediately after the catastrophic event if:

(A) The absentee's body could not be recovered due to the nature of the catastrophic event; and

(B) evidence presented to a court of proper jurisdiction places the absentee at the site of the catastrophic event on the date and at the time of the event.

(3) Upon a finding of presumptive death, the district court shall order the coroner in the county in which death occurred to prepare a death certificate with the cause of death identified as due to the catastrophic event in accordance with K.S.A. 65-2412(c) and 65-2414, and amendments thereto.

(4) Upon receipt of the death certificate the office of vital statistics shall register and make available for issuance certified copies of the death certificate in accordance with K.S.A. 65-2401 *et seq.*

(5) If pertinent new information is received by the court, pursuant to a court order, the presumptive death certificate may be amended in accordance with K.S.A. 65-2422c. In a case where the absentee is found to be alive, the presumptive death certificate shall be rescinded.

(6) The secretary of the department of health and environment may by rule and regulation prescribe forms and procedures to implement the provisions of this act.

(b) For the purposes of this act:

(1) "Catastrophic event" means a disaster that will require massive state or federal assistance, or both, including immediate military involvement.

(2) "Disaster" means any natural, technological or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by the governor or president of the United States or a state of war emergency by the president of the United States.

(3) "State of emergency" means the declaration of the existence of conditions of disaster, catastrophe or extreme peril to the safety of persons or property within the state caused by air or water pollution, fire, flood, storm, epidemic, earthquake, resource shortages or other natural or man-made conditions other than conditions causing a "state of war emergency", which conditions by reasons of their magnitude are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county or municipality, or both, and requires combined forces of the state to combat.

(4) "State of war emergency" means the condition which exists immediately, with or without a declaration by the governor, whenever this state or nation is attacked by an enemy of the United States or upon receipt by the state of a warning from the federal government indicating an action against persons or society including but not limited to, emergency attack, sabotage, terrorism, civil unrest or other action impairing the orderly administration of government is probable or imminent.

History: L. 2002, ch. 71, § 2; July 1.